

REMARKS

Prior to this Response, Claims 1-20 were pending in this application. Claims 21-29 have been added. No new matter has been added by the addition of these claims. Therefore, Claims 1-29 remain presented for examination. Applicant respectfully requests reconsideration of this application in view of the following remarks.

Request for Examiner Interview

As an initial matter, Applicant respectfully requests an Examiner Interview prior to the issuance of another Office Action. Applicant's representative, Melissa Haapala, may be reached at 303-571-4000.

35 U.S.C. § 102 Rejection, Schlitz

The Office Action has rejected Claims 1, 2, 6-8, 14-15 and 17 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,742,799 to Schlitz (hereinafter "Schlitz"). Applicant respectfully traverses as Schlitz fails to disclose all of the recitations of these claims.

Claim 1 recites "a bedding structure for animals to lie upon, said bedding structure having a pocket formed therein." In contrast, Schlitz discloses a puppy toy. Schlitz, col. 1, ll. 53-55. In a preferred embodiment, the toy is 8-12 inches long and 3-5 inches wide. Id., at col. 2, ll. 66-68. Applicant can find no teaching or suggestion of a bedding structure for animals to lie upon. Claim 1 further recites that a soothing means is removably disposed in said pocket, "to communicate said vibrations to animals lying upon said bedding structure." Schlitz also fails to disclose a soothing means to communicate vibrations to animals lying upon a bedding structure. As Schlitz fails to teach or suggest the recitations of claim 1, Applicant respectfully submits claim 1 is allowable.

Claims 2, 6-8, 14-15, and 17 depend on claim 1 and are accordingly believed to be allowable for at least the same reasons as claim 1. Applicant also respectfully submits that these claims are allowable for additional reasons. For instance, claims 6, 7, and 8 recite further details of the bedding structure. As Schlitz fails to disclose any type of bedding structure, Schlitz

also fails to disclose the additional details of the bedding structure cited in these claims. As another example, claim 17 recites "wherein said rhythmic vibrations comprise a combination of tactilely perceptible vibrations and sound waves." Although Schlitz discloses that the device may simulate a heartbeat, there is no mention of how the heartbeat is simulated or that it comprises the combination recited in claim 17.

35 U.S.C. § 103 Rejection over Schlitz in view of Lee

The Office Action has rejected Claims 3-5, 13 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Schlitz in view of U.S. Patent No. 4,718,876 to Lee (hereinafter "Lee"). Applicant respectfully traverses as there is no motivation to combine these references and the cited references fail to disclose all of the recitations of these claims.

Lee discloses a child calming device, such as a stuffed animal. Lee, abstract, ll. 1-2. Lee does not address the different needs and requirements for a device suitable for use by an animal nor at any point does Lee suggest that the child calming device even could be used for soothing an animal. In fact, a stuffed animal may be entirely inappropriate for use by an animal, as the animal may very quickly and easily destroy the child calming device disclosed by Lee. As neither Schlitz nor Lee provide a motivation to combine a child calming device with a puppy toy, Applicant respectfully submits that these claims are allowable.

Additionally, Applicants also believe these claims are allowable as the references fail to teach or suggest all of the recitations of the claims. Claims 3-5 and 13 depend on claim 1 and are believed to be allowable for at least the same reasons previously discussed, as well as additional reasons. For instance, claim 4 recites the heartbeat simulator device includes a pressure sensitive switch "for activation thereof when the animal places its weight upon said bedding structure and for deactivation thereof when the animal removes its weight form said bedding structure." Neither Schlitz nor Lee disclose a heartbeat simulator device activated by an animal placing its weight on a bedding structure and deactivated when the animal removes its weight. As another example, claims 5 and 13 recites additional details of the bedding structure, which is not disclosed in either reference.

Claim 18 recites containment and positioning means for containing a soothing means and "for positioning said soothing means between the animal and a surface upon which the animal reclines, such that the weight of the animal upon said soothing means will actuate said pressure sensitive switch thereby actuating said vibrations." Neither reference discloses positioning a soothing means between the animal and a surface upon which the animal reclines so the weight of the animal will activate the generation of vibrations. Therefore, claim 18, and its dependent claims 19-20 are believed to be allowable. Claims 19 and 20 are also believed to be allowable for additional reasons. For example, claim 19 recites that the "containment and positioning means comprises animal bedding for animals to recline upon." As another example, claim 20 recites the containment and positioning means comprises "a wearable structure to be worn by an animal." Neither reference discloses a wearable structure to be worn by an animal. Accordingly, claims 19 and 20 are also believed to be allowable for these additional reasons.

35 U.S.C. 103 Rejection, Schlitz

The Office Action has rejected Claims 9 and 16 as being unpatentable over Schlitz. Claims 9 and 16 depend on claim 1 and are believed to be allowable for the same reasons discussed above. Additionally, as stated in the Office Action, Schlitz fails to disclose the additional recitations of these claims. Thus, the Examiner appears to be taking Official Notice of these recitations. As such, Applicant respectfully objects to the Official Notice and hereby request an express showing of documentary proof of these propositions as set forth in MPEP 2144.03.

35 U.S.C. 103 Rejection, Schlitz in view of Eakin

The Office Action has rejected Claims 10-13 as being unpatentable over Schlitz in view of U.S. Patent No.6,024,407 to Eakin (hereinafter "Eakin"). Claims 10-13 depend on claim 1. Eakin also fails to teach or suggest the recitations of claim 1 discussed above. In particular, Eakin discloses vibrating material which vibrates furniture, such as chairs, lounges, mattresses, and pillows. At no point does Eakin disclose a bedding structure for animals to lie upon. Additionally, Applicant can find no motivation to combine vibrations in furniture designed for

people with a puppy toy. Accordingly, Applicant respectfully submits that claims 10-13 are allowable for at least the same reasons discussed above, as well as for additional reasons. For instance, claim 12 recites the bedding structure for animals to lie upon comprises padding disposed on an elevated resting platform for a climbing animal. Neither reference discloses such an elevated structure, or even mentions a climbing animal.

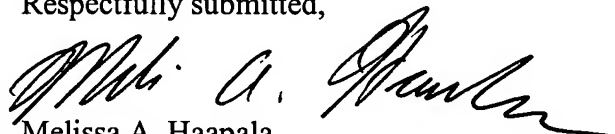
New Claims

No new matter has been added by new claims 21-29. Applicant respectfully submits that these claims are allowable as the references fail to teach or suggest all of the recitations of these claims.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Respectfully submitted,


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